

PLANNING COMMISSION DRAFT MINUTES OF 07/26/04

2004-0257 – Brad King and Keith Jackson [Applicant] **Four Square Gospel International Church** [Owner]: Application for related proposals on a 36,337 square-foot site located at **127 North Sunnyvale Avenue** in an R-2 (Low Medium Density Residential) Zoning District. (Mitigated Negative Declaration) (APN: 204-49-012) RK

- **Rezone** from R-2 (Low-Medium Density Residential) to R-2/PD (Low-Medium Density Residential/Planned Development) Zoning District,
- **Special Development Permit** to allow the development of ten new town homes, and
- **Tentative Map** to subdivide one lot into ten lots and one common lot.

Ryan Kuchenig, Project Planner, presented the staff report. He summarized the proposed project highlighting the use, site layout, architecture, floor plan, landscaping, trash enclosure, parking and circulation. He stated that the project meets the development standards except for some of the units do not meet the minimum setbacks but staff was able to justify this code deviation. He corrected Conditions of Approval #13 that the developer should provide one BMR homeownership unit or pay an in-lieu fee. He added that Condition #25 should be deleted as this condition is incorporated in Condition of Approval #13. Further, he noted clarification to the staff report that the two front units are the smaller units where the remaining eight are larger. Staff was able to make the required Findings and recommended approval subject to the Conditions of Approval.

Comm. Babcock asked staff to clarify whether all units are not meeting the rear setback requirement. Staff responded that most units meet the first story setbacks; however, units 1, 8, 9 and 10 do not meet the first story setback requirement.

Comm. Babcock asked staff for the rationale for allowing this code deviation. Staff responded that the units requiring this deviation compose a small section of the development site and staff felt that it is not significant.

Comm. Simons asked whether the traffic impact on Condition of Approval #42 could be dedicated to the planned project which is connecting the project site neighborhood to the downtown and mass transit. Senior Assistant City Attorney Borger explained the traffic impact fee resolution stating that it is generally a fee put in a general pot and not dedicated to one specific project. For a project specific condition, a project specific traffic mitigation fee could be imposed. Jack Witthaus, Traffic and Transportation Manager, further clarified that calculation of the traffic impact fee was based on identified long range infrastructure projects such as roadway capacity projects, three bicycle projects and a comprehensive sidewalk program. He explained how the cumulative fee is going to be disbursed to these projects through the life of the General Plan.

Comm. Simons further asked whether there is a nexus for this particular project to connect to the downtown. Mr. Witthaus responded that it would be difficult to ascertain the nexus for a pedestrian impact on a multi-million dollar improvement for the downtown with a 10-unit residential development.

Comm. Simons expressed his concerns about incremental projects which overall may have a pedestrian impact and that no policy is in place to address this cumulative impact.

Comm. Klein commented that during his site visit, he observed that the fence on the northern property line is not completely even and asked whether the fence is on the property line. Staff responded that the property line shown on the site plan is correct and the existing fence was not built on the property line. However, he noted that the applicant is proposing to install a six-foot high fence to be built on the property line.

Comm. Klein further commented that one of the mitigation measures is to build at least five-foot high fence on Unit One and Ten facing north of Sunnyvale. He asked whether the standard fence is six feet high and whether this is going to be standard throughout the project site. Staff responded that the applicant is currently proposing six-foot high fence which is noted in the Conditions of Approval subject to review at building permit issuance.

Furthermore, Comm. Klein asked whether the sound rating mitigation measure for east and south windows precluding western windows is recommended by the noise study. Staff responded yes and if the Commission felt that western side windows need this type of windows, they could make that recommendation.

Chair Moylan asked staff to clarify the deviation on the rear setback requirements. Staff responded that second story of all units deviate from the rear setback requirements but only some units do not meet the first floor rear setback requirements.

Chair Moylan opened the public hearing.

Glenn Cahoon, applicant/designer, clarified that the rear setback deviation is due to the mature trees. He opted to preserve the mature trees resulting in this deviation. He confirmed that all of the second floor units are less than 20 feet rear setback. He stated that he proposes to build a six-foot high fence with lattice around the project site. He would also install dual pane windows meeting the sound rating requirement. He agreed with the Conditions of Approval as recommended by staff.

Comm. Babcock asked Mr. Cahoon whether he would consider building the units a little smaller to meet the rear setback requirements. Mr. Cahoon responded that by the time the garage is built, the units would become infeasible and would be less than livable home. He further noted that a couple of units in the front are designed to have more frontage.

Further, Comm. Babcock asked staff for the rear yard setback of the homes on Anchor Bay Terrace and whether they have the same zoning designation. Staff responded those units have similar zoning designation but staff was unable to determine the rear yard setback. Mr. Cahoon stated that the setbacks are considered side yards setback of the existing homes on Anchor Bay Terrace and the side yard setback is approximately five feet.

Comm. Simons adding to Comm. Babcock's concerns about the setback deviation, commented that the second floor would have more of an impact to the neighbors and asked the applicant if he could address this issue. Mr. Cahoon responded that he could reduce the upper floor but by doing so, one bedroom may have to be removed. During his development plan due diligence in indicated that in order to market and to be competitive, the floor plan submitted would be the best and highest use for the site. He addressed the front and rear property view of the units and the site layout and felt that the layout and floor plans are the best design.

Martin Aalund, member of the public, commented that overall the project is well thought out and well planned, however he has some concerns. First, there appears to be a creation of a private road that goes to Sunnyvale-Saratoga that may impact the existing homes with the lights from incoming traffic. He asked that the applicant address the light permeability of the fence to these homes or whether there would be landscaping to address this concern. He further asked whether there would be tree protection plan should the fence be built around the project site. Third, he asked how long would the construction last. He also noted that the plans do not show the second story, the rear view of the house do not show the chimney, so there appears to be a discrepancy. He expressed his concerns that the large size units being proposed may not be compatible with the existing neighborhood

Michael Gutierrez, member of the public, provided a photograph of dead oak tree and asked the Commission whether this tree would be removed. Chair Moylan directed the speaker to Page 8 of the staff report stated that five trees that are not considered significant would be removed. Staff added that the pepper tree would be removed.

Mr. Gutierrez noted that there is wild tree that hangs over his property and whether it is one of the five that is going to be removed. Chair Moylan responded that the applicant could address this during his closing comments.

Mr. Gutierrez further asked how many bedrooms would be looking down into his property. Staff responded that bedrooms #3 and #4 of Lot 4 would be facing his property as noted in the site plan.

Mr. Cahoon commented that there would be landscaping on the fence and that two trees would be planted to clearly shield the properties to serve as light screens. He stated that it would take approximately one year to build the units. He apologized for the unclear elevation and for neglecting to demonstrate the presence of the chimney. He stated that the direction of most of the windows would be facing the interior to address privacy impacts. He stated that the pepper tree would be removed. He noted

that there is a dead oak tree near the project site but it is not within the project site. However, if the tree is deemed to be a hazard, he is willing to remove this tree. He will work with staff to identify the thorn tree and address the need for removal.

Chair Moylan closed the public hearing.

ACTION: Comm. Babcock made a motion to adopt the Negative Declaration and approve the Use Permit subject to the Conditions of Approval. Comm. Klein seconded.

Comm. Babcock commented that she would have preferred that the project adheres to setback requirements; however, given the constraints, the deviation is not significant. She stated that the overall the project is nice that would blend in well with the neighborhood.

Comm. Klein agreed with Comm. Babcock and added that the project has a good layout. He was pleased that the existing tree would be preserve in keeping with the city's heritage. He noted that the applicant did the best they could given the tight site layout and that the trash issue was addressed positively.

Comm. Fussell made a friendly amendment to modify Condition of Approval #13 to state that one Below Market Rate ownership unit shall be provided or pay an in-lieu fee and to eliminate Condition of Approval #25 as recommended by staff. Accepted by the maker and the second.

Comm. Simons made a friendly amendment to add a condition that landscaping shall be provided between the project site and adjacent properties to protect from light intrusions. Accepted by the maker and the second.

FINAL MOTION:

ACTION: Comm. Babcock made a motion on Item #2004-0257 to recommend to City Council to adopt the Negative Declaration, introduce an Ordinance to Rezone from R-2 (Low-Medium Density Residential) to R-2/PD (Low-Medium Density Residential/Planned Development) and approve the Special Development Permit and Tentative Map subject to the Conditions of Approval with modifications: 1) to modify Condition of Approval #13 to state that one Below Market Rate ownership dwelling units shall be provided or to pay an in-lieu fee; 2) to delete Condition of Approval #25, and 3) to add Condition of Approval #31j to state that there shall be landscaping between the project site and adjacent properties to screen from light intrusions. Comm. Klein seconded.

Motion carried 6-0 with Vice Chair Hungerford absent.

Ms. Caruso stated that the item will be considered by City Council on 08/10/04.